

Options for providing caregiver decision-making authority to persons who are not relatives or parents of a child in their care displaced by Hurricane Katrina

I. Purpose

The purpose of this paper is to present options for allowing persons who are not parents or relatives of a child to provide for the basic needs and assure the health, safety, and welfare of a child in their care as a result of being displaced by Hurricane Katrina.

For adults who are relatives of the child in their care, families should be referred to Wisconsin's Kinship Care program. If a child comes to Wisconsin alone and moves in with a relative, the family should be referred to the Kinship Care program and staff of the Interstate Compact on the Placement of Children (ICPC).

Considering the extreme circumstances of this disaster, agencies should make decisions that will allow children to remain with persons who are not related to them but are caring for them due to the hurricane, unless threats to the child's safety are identified.

II. Program Description

"Guardian," as defined in s. 48.02(8), means a person named by the court having the duty and authority of guardianship.

"Guardianship," as defined in s. 48.023, means the legal status of a person appointed by the court to have the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the child's general welfare.

III. Options for granting a person not a relative or parent authority to care for a child

A. *Court-ordered placement*

This option allows for the child to remain in the care of a person who is not a relative, as defined in s. 48.02(15), and who has physical custody of the child while the agency, if the agency is named by the court as the legal custodian or guardian of the child, retains the authority to make decisions related to the care and placement of the child. In this situation, the court would authorize placement of the child with the person who is not the relative.

If the court named the person as the guardian of the child, there would be no need for the county agency or BMCW to license the person as a foster parent. If, however, the county agency or BMCW was named as the guardian, licensure would be required. The court could place the child with the person who is the child's physical custodian without a license for a period of up to 30 days (with the possibility of one 30-day extension on a temporary physical custody order).

At a minimum, a child welfare case would need to be opened with the agency under the "Services Intake" option. All permanency planning requirements would apply.

B. Guardianship

1. Section 48.977 guardianship

Guardianship granted under this section of the statutes is intended to be a permanent placement that arises out of a court finding that the child is in need of protection or services (CHIPS). The court is required to find that the child is likely to stay with the proposed guardian until he or she is 18 years old or an extended period of time and that the proposed guardian would be willing and able to serve as guardian until the child is 18 or for an extended period of time.

2. Ch. 880 guardianship

This guardianship can be established for any time period, and the adult who is not a relative can petition the court for guardianship without involvement of an agency. A guardianship granted under Ch. 880 empowers a person who is not a relative to act in areas designated by the court, e.g. health, education, financial, and physical care. It is possible to request a temporary Ch. 880 guardianship for up to 120 days.